

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed February 15, 2011 ("Office Action") and the Interview Summary mailed on April 11, 2011. The Applicant respectfully requests reconsideration and favorable action in this case.

Summary of rejections and amendments

The Examiner rejected claims 26-45 under 35 U.S.C. §103(a). Claims 26, 35 and 40 are amended herein. No claims have been canceled or newly added. Claims 26-45 are therefore pending in the application.

Interview Summaries

Telephonic interviews were conducted on April 6 and 11, 2011 between Examiner Goldberg and Attorneys Schuster and Berrier. The availability of the Chong provisional patent application as prior art was discussed. Agreement was reached that, in accordance with M.P.E.P. 2127, the Chong provisional patent application is not available as prior art as cited in the Office Action.

Rejections under 35 U.S.C. § 103

Claims 26-45 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Provisional Patent Application No. 60/263,574 ("Chong"). The Applicant respectfully submits that, because an abandoned (e.g., provisional) patent application is available as prior art only as of the date the public gains access to the application, Chong is not available as prior art against the present application. More specifically, the public did not gain access to Chong until the printing of either U. S. Application Patent Pub. No. 2002/0144233 on October 3, 2002 or U. S. Application Patent Pub. No. 2002/0184610 on December 5, 2002, both of which refer to Chong. Because these publications do not antedate the priority date of the present application, Chong is not available as prior art against the application and cannot support the rejection of the claims under 35 U.S.C. §103(a). As noted above, the unavailability of Chong as prior art as cited in the Office Action was discussed with and agreed to by the Examiner. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of all claims. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

Sprinkle IP Law Group
Attorneys for Applicant



Katharina W. Schuster
Reg. No. 50,000

Date: May 5, 2011

1301 W. 25th Street, Suite 408
Austin, TX 78705
Tel. (512) 637-9220
Fax. (512) 371-9088